

Amendment No. 1 to HJR0528

Ramsey
Signature of Sponsor

AMEND

House Joint Resolution No. 528*

by deleting all language after the caption and substituting instead the following:

WHEREAS, the United States Supreme Court, in the unanimous opinion authored by Justice Kennedy in *Bond v. United States*, 564 U.S. 211 (2011), declared that the federal system rests on the insight that "freedom is enhanced by the creation of two governments, not one"; and

WHEREAS, the court further stated that this freedom is enhanced "first by protecting the integrity of the [two] governments themselves, and second by protecting the people, from whom all governmental powers are derived"; and

WHEREAS, "[f]ederalism . . . serves to grant and delimit the prerogatives and responsibilities of the States and the National Government vis-a-vis one another" and "preserves the integrity, dignity, and residual sovereignty of the States"; and

WHEREAS, "[t]his federal balance is, in part, an end in itself, to ensure that States function as political entities in their own right"; and

WHEREAS, "[t]he federal structure allows local policies 'more sensitive to the diverse needs of a heterogeneous society,' permits 'innovation and experimentation,' enables greater citizen 'involvement in democratic processes,' and makes government 'more responsive by putting the States in competition for a mobile citizenry'"; and

WHEREAS, "[f]ederalism secures the freedom of the individual. It allows States to respond, through the enactment of positive law, to the initiative of those who seek a voice in

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shaping the destiny of their own times without having to rely solely upon the political processes that control a remote central power"; and

WHEREAS, "[b]y denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power. When government acts in excess of its lawful powers, that liberty is at stake"; and

WHEREAS, "[t]he limitations that federalism entails are not therefore a matter of rights belonging only to the States. States are not the sole intended beneficiaries of federalism. An individual has a direct interest in objecting to laws that upset the constitutional balance between the National Government and the States"; and

WHEREAS, the constitutional analysis used by five of the nine Justices on the United States Supreme Court in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), by which it is purported to take away from the states jurisdiction over the definition of marriage and substitute a new definition for the one legislatively enacted and ratified by the overwhelming majority of the individual voters of this State, could be applied by the United States Supreme Court to any number of other state functions and any number of other policies inherently and historically left to the states, in derogation of the rights reserved to the states under the Tenth Amendment and the rights of its citizens reserved to them under the Ninth Amendment; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED NINTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, we hereby affirm Tennessee's sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States.

BE IT FURTHER RESOLVED, that all branches of the federal government desist from its practice of assuming powers and imposing mandates upon the states for purposes not enumerated by the Constitution of the United States.

BE IT FURTHER RESOLVED, in recognition of the federal governments' infringement upon Tennessee's sovereignty under the Tenth Amendment, this body urges Congress to act with all diligence in presenting to the states for ratification an Amendment to the United States Constitution that would return power over the definition of marriage to the people of the various states.

BE IT FURTHER RESOLVED, that this body also urges Congress by resolution or such other means as may be appropriate to officially express its dissent and disagreement with the constitutional reasoning of the United States Supreme Court in *Obergefell v. Hodges*.

BE IT FURTHER RESOLVED, that we further urge Congress to conduct hearings for the purpose of determining and announcing to the people what actions it will take to restrain the power of the federal judiciary and restore to the people and the states the rights and prerogatives belonging to them under the Ninth and Tenth Amendments, respectively, including, but not limited to, an evaluation of remedies such as term limits for judges, retention elections for judges once confirmed, confirmation of judges by, or their retention by, approval of the states, and limitations by Congress on the precedential value of Supreme Court decisions on parties not before the Court and to other issues that were not before the Court.

BE IT FURTHER RESOLVED, that an enrolled copy of this resolution be transmitted to the Speaker and Clerk of the United States House of Representatives, the President and Secretary of the United States Senate, and each member of the Tennessee Congressional delegation with this final clause omitted from such copy.